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BEFORE THE ARIZONA CORPORATION COMMISSION

KRISTIN K. MAYES

Chairman

GARY PIERCE

Commissioner

PAUL NEWMAN

Commissioner

SANDRA D. KENNEDY

Commissioner

BOB STUMP

Commissioner

Arizona Corporation Commission

DOCKETED

JAN 26 2010

DOCKETED BY

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IN THE MATTER OF THE APPLICATION
OF MESQUITE POWER LLC, OR THEIR
ASSIGNEES(S), IN CONFORMANCE
WITH THE REQUIREMENTS OF
ARIZONA REVISED STATUTES 40-360 ET
SEQ., FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AUTHORIZING CONSTRUCTION OF A
NATURAL GAS-FIRED, COMBINED
CYCLE GENERATING FACILITY
("MESQUITE PROJECT") LOCATED
SOUTH OF ELLIOT ROAD,
APPROXIMATELY ONE MILE EAST OF
WINTERSBURG ROAD AND
APPROXIMATELY 37 MILES WEST OF
THE PHOENIX METROPOLITAN AREA,
NEAR ARLINGTON IN MARICOPA
COUNTY, ARIZONA.

DOCKET NO. L-00000S-00-0101-00000
(CASE NO. 101)

DECISION NO. 71476

ORDER AMENDING

DECISION NO. 63232

Open Meeting
January 12 and 13, 2010
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On December 5, 2000, the Commission issued Decision No. 63232 which granted a
Certificate of Environmental Compatibility ("CEC") to Mesquite Power LLC ("Mesquite").

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1 2. As part of the CEC, Mesquite was ordered to comply with several conditions,
2 including the Condition Number 11 (ii): "Implement a comprehensive revegetation program
3 designed to restore portions of the water property with plant communities similar to the adjacent
4 desert lands".

5 3. On October 30, 2009, the Commission granted Mesquite a CEC for its "Solar Gen-
6 Tie" application in Decision No. 71320.

7 4. On November 3, 2009, Mesquite filed a request under A.R.S. § 40-252 for
8 amendment of its CEC granted in Decision No. 63232 to allow for development of its solar project
9 on portions of the "Water Property". Mesquite's request for amendment of Decision No. 63232
10 states that it is necessary to eliminate the revegetation requirement because it is incompatible with
11 the installation and operation of photovoltaic solar panels on the portions of the "Water Property".

12 5. On November 30, 2009, Mesquite's request for amendment of its CEC was placed
13 on a Commission Open Meeting agenda for consideration of whether to reopen Decision No.
14 63232 pursuant to A.R.S. § 40-252. The Commission voted to grant Mesquite's request to reopen
15 Decision No. 63232 to consider amending Mesquite's CEC concerning the revegetation condition
16 in its CEC.

17 6. Commission Staff ("Staff") recommends that the Commission grant Mesquite's
18 request to amend Decision No. 63232 by modifying CEC Condition Number 11 (ii) for
19 revegetation because the requirement is incompatible with the installation and generation of
20 photovoltaic panels for portions of the water property utilized as solar energy facilities.

21 7. Staff recommends that CEC Condition Number 11 (ii) be modified by the
22 following new language shown in bold.

- 23 (ii) Implementation of a comprehensive revegetation program designed
24 to restore portions of the water property with plant communities
25 similar to the adjacent desert lands. **The comprehensive**
26 **revegetation program shall not be applicable to those portions**
27 **of the water property utilized as solar energy facilities and**
28 **Applicant may modify the comprehensive revegetation**
program accordingly.

8. The Commission finds that Staff's proposed amendment of CEC Condition Number 11 (ii) should be adopted because the revegetation requirement is incompatible with the installation and generation of photovoltaic panels for the portions of the water property utilized as solar energy facilities.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of Mesquite's CEC and its request to amend Decision No. 63232 pursuant to ARS § 40-252.

2. Notice and an opportunity to be heard have been provided to the interested parties. It is in the public interest to amend Decision No. 63232 to modify CEC Condition Number 11 (ii) for revegetation because the requirement is incompatible with the installation and generation of photovoltaic panels for the portions of the water property utilized as solar energy facilities.

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ORDER

IT IS THEREFORE ORDERED that Decision No. 63232 is amended to modify CEC Condition Number 11 (ii) concerning revegetation to remove the requirement for the portions of the water property utilized as solar energy facilities because the requirement is incompatible with the installation and operation of photovoltaic solar panels.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 26th day of JANUARY, 2010.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

EGJ:KDB:lhvJMA

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